

To: Alabama Advisory Committee on Child Support Guidelines and Enforcement

From: Jane Venohr, CPR

Data: May 13, 2022

RE: Parenting Time Adjustments

The February memorandum identified five considerations in shared-parenting adjustments. The table listed below lists the considerations and the options explored in this memorandum.

1. Criteria for applying the adjustment (e.g., court-ordered shared custody arrangement, agreed-to-by-parents, actual)	Court-ordered
2. Definition of “days” or “overnights” and addressing non-traditional work schedules	Arrangement defined in court order.
3. Actual formula <ul style="list-style-type: none"> <li>• Threshold of overnights for applying</li> <li>• Whether formula produces \$0 order when parents have equal incomes and timesharing is 50%/50%</li> </ul>	Threshold: equal Formula: cross-credit with multiplier to account for it costing more to raise a child in to households than one household. (Also, called the offset).
4. Modification if timesharing does not occur as considered in the order	See IN, draft KY, MI, SD
5. Miscellaneous (consider custodian’s households income) <ul style="list-style-type: none"> <li>• Not apply both the timesharing adjustment and the low-income adjustment. Provide that the lower of the two calculations is applied.</li> <li>• Prohibiting timesharing adjustment if custodial household’s income is below</li> </ul>	Custodial low-income: See SD

### Additional Considerations

6. Should the adjustment be applied at judicial discretion or presumptively?
7. Should the criterion for applying the adjustment be exactly 50-50 or about 50-50?
8. Some states provide a criterion about actual sharing of expenses or specifying that expenses should be shared? Should Alabama?
9. Some states specify separate calculations for equal incomes and non-equal incomes? The issue actually ties into the 150% Multiplier and dividing difference by 50% which was identified in a committee meeting (i.e., offset or cross-credit)?
10. Is there a need to use the term, “overnight” or define “overnight” if there are orders for “days” or blocks of time (e.g., the alabamaparentingplans.org site talks about “sessions of 3 to 6 hours without overnights.” Would 4 sessions per month count as one overnight?
11. Worksheet or no worksheet?
  - a. Child Support Guidelines form (Form CS-42) is mentioned about 40 times in rule: would this need to be rewritten if there is another worksheet.
12. Should split custody be addressed also?
13. How to approach markup of rule changes?

## Other Resources:

[Parenting Plans – Alabama Model Parenting Plan Court Forms and Time-Sharing Schedules \(alabamaparentingplans.org\)](http://alabamaparentingplans.org)

## ADDITIONAL ISSUES AND THE ADVANTAGES AND DISADVANTAGES OF ALTERNATIVE APPROACHES

A table with excerpts from state guidelines follows this discussion on landscaped pages.

### Issue 6: Discretionary or Presumptive

- See discretionary language such as “may” in South Dakota
- See presumptive language such as “shall” in Iowa

	Identified Advantages	Identified Disadvantages
Discretionary	<ul style="list-style-type: none"><li>• Judge considers individual circumstances of case</li><li>• Smaller change</li></ul>	<ul style="list-style-type: none"><li>• Potential inconsistent application</li></ul>
Presumptive	<ul style="list-style-type: none"><li>• Parents have predictable outcome</li><li>• Consistent application</li></ul>	<ul style="list-style-type: none"><li>• Larger change, may receive some pushback</li></ul>

### Issue 7: Exactly 50-50 or “about”

- Exactly 50-50 (see Iowa)
- “about”(see Louisiana)
- Threshold just below 50% (see Nebraska)

	Identified Advantages	Identified Disadvantages
Exactly 50%	<ul style="list-style-type: none"><li>• Definitive</li></ul>	<ul style="list-style-type: none"><li>• No discretion for 48 or 49% or etc...</li></ul>
About 50%	<ul style="list-style-type: none"><li>• Provides court discretion to consider the individual circumstances</li></ul>	<ul style="list-style-type: none"><li>• Inconsistent application</li></ul>
Below 50%	<ul style="list-style-type: none"><li>• Addresses other timesharing arrangements</li></ul>	<ul style="list-style-type: none"><li>• Shifts the issues to another timesharing threshold</li></ul>

### Issue 8: Provide criterion or treatment of specific expenses?

This criterion varies significantly among states. The advantages are more guidance to courts on what to consider and how to consider it and more specificity on how parents are to share expenses. The disadvantage is mis-interpretation of intent.

- States may provide consideration of the parent’s ability to provide basic necessities when deciding to provide the adjustment (e.g., South Carolina).
- States may assume there is real cost sharing and the parents will share expenses equally or proportionate to income (e.g., South Dakota)
- States may name clothing and extracurricular activities (e.g., Nebraska).

### Issue 9: Separate calculations for equal incomes and non-equal incomes?

- When equal income and equal physical custody it is \$0 order: which can be simply stated (See Nevada). There is no need for a worksheet.
- See Maine for separate calculations. Maine does not weigh each parent’s theoretical order by the percentage of time for equal incomes.

Figure 2 shows a simple offset like the Maine and Nevada calculation. Figure 3 shows it weighed by time. Deductions from income and childcare and healthcare expenses are assumed to be zero in these illustrations.

Figure 1: Sole Custody Situation: Order is \$570

		Number of Children		1
Line	Item	Plaintiff	Defendant	Combined
1	MONTHLY GROSS INCOME	\$ 2,000	\$ 4,000	\$ 6,000
2	MONTHLY ADJUSTED GROSS INCOME (Line 1 – Line 1a – Line 1b)	\$ 2,000	\$ 4,000	\$ 6,000
3	PERCENTAGE SHARE OF INCOME (Income on Line 2 divided by Combined Income)	33%	67%	100%
4	BASIC CHILD-SUPPORT OBLIGATION (Apply Line 2 Combined to Schedule of Basic Child-Support Obligations)			\$ 851
8	EACH PARENT'S CHILD-SUPPORT OBLIGATION (Line 3 x Line 7)	\$ 281	\$ 570	
13	RECOMMENDED CHILD-SUPPORT ORDER (Lesser of Lines 10 and 12)	\$ 281	\$ 570	

Figure 2: Offset Formula for Equal Custody (50/50% timeshare): Order is \$434

		Number of Children		1
Line	Item	Plaintiff	Defendant	Combined
1	MONTHLY GROSS INCOME	\$ 2,000	\$ 4,000	\$ 6,000
2	MONTHLY ADJUSTED GROSS INCOME (Line 1 – Line 1a – Line 1b)	\$ 2,000	\$ 4,000	\$ 6,000
3	PERCENTAGE SHARE OF INCOME (Income on Line 2 divided by Combined Income)	33%	67%	100%
4	BASIC CHILD-SUPPORT OBLIGATION (Apply Line 2 Combined to Schedule of Basic Child-Support Obligations)			\$ 851
New Line 5	SHARED-PARENTING TIME OBLIGATION (150% of Basic Obligation (1.5 X Line 4))			\$ 1,277
New Line 6	EACH PARENT'S SHARE OF SHARED-PARENTING OBLIGATION (Line 3 x New Line 5)	\$ 421	\$ 855	
New Line 7	RECOMMENDED CHILD SUPPORT ORDER (Subtract amount on Line 6 from higher amount, put in column of parent with higher amount)		\$ 434	

Figure 3: Cross-Credit for Equal Custody (50%/50% timeshare): Order is \$217 (half as much as offset)

1	MONTHLY GROSS INCOME	\$ 2,000	\$ 4,000	\$ 6,000
2	MONTHLY ADJUSTED GROSS INCOME (Line 1 – Line 1a – Line 1b)	\$ 2,000	\$ 4,000	\$ 6,000
3	PERCENTAGE SHARE OF INCOME (Income on Line 2 divided by Combined Income)	33%	67%	100%
4	BASIC CHILD-SUPPORT OBLIGATION (Apply Line 2 Combined to Schedule of Basic Child-Support Obligations)			\$ 851
New Line 5	SHARED-PARENTING TIME OBLIGATION (150% of Basic Obligation (1.5 X Line 4))			\$ 1,277
New Line 6	EACH PARENT'S SHARE OF SHARED-PARENTING OBLIGATION (Line 3 x New Line 5)	\$ 421	\$ 855	
New Line 7	EACH PARENT'S TIMESHARING SHARE	50%	50%	100%
New Line 8	AMOUNT RETAINED FOR PARENT'S TIME WITH CHILD (New Line 6 X New Line 7)	\$ 210.50	\$ 427.50	
New Line 9	EACH PARENT'S TIME-ADJUSTED OBLIGATION (New Line 6 minus New Line 8)	\$ 210.50	\$ 427.50	
New Line 7	RECOMMENDED CHILD SUPPORT ORDER (Subtract amount on Line 6 from higher amount, put in column of parent with higher amount)		\$ 217	

	Identified Advantages	Identified Disadvantages
Offset (no weighing by time)	<ul style="list-style-type: none"> <li>• <b>Simple</b></li> <li>• Worksheet not necessary</li> </ul>	<ul style="list-style-type: none"> <li>• Doesn't work if want to adjust for 40%/60% timeshare or something other</li> </ul>
Cross-Credit	<ul style="list-style-type: none"> <li>• Can be used for other timesharing arrangements</li> <li>• Two steps closer to a formula that would vary with time, where the offset is one step closer.</li> </ul>	<ul style="list-style-type: none"> <li>• Probably should have worksheet, which requires more rewrite to guidelines and another worksheet</li> </ul>

Figure 4: Cross-Credit for 60-40% Timesharing

1	MONTHLY GROSS INCOME	\$ 2,000	\$ 4,000	\$ 6,000
2	MONTHLY ADJUSTED GROSS INCOME (Line 1 – Line 1a – Line 1b)	\$ 2,000	\$ 4,000	\$ 6,000
3	PERCENTAGE SHARE OF INCOME (Income on Line 2 divided by Combined Income)	33%	67%	100%
4	BASIC CHILD-SUPPORT OBLIGATION (Apply Line 2 Combined to Schedule of Basic Child-Support Obligations)			\$ 851
New Line 5	SHARED-PARENTING TIME OBLIGATION (150% of Basic Obligation (1.5 X Line 4))			\$ 1,277
New Line 6	EACH PARENT'S SHARE OF SHARED-PARENTING OBLIGATION (Line 3 x New Line 5)	\$ 421	\$ 855	
New Line 7	EACH PARENT'S TIMESHARING SHARE	60%	40%	100%
New Line 8	AMOUNT RETAINED FOR PARENT'S TIME WITH CHILD (New Line 6 X New Line 7)	\$ 253	\$ 342	
New Line 9	EACH PARENT'S TIME-ADJUSTED OBLIGATION (New Line 6 minus New Line 8)	\$ 168	\$ 513	
New Line 7	RECOMMENDED CHILD SUPPORT ORDER (Subtract amount on Line 6 from higher amount, put in column of parent with higher amount)		\$ 435	

Note that the cross-credit for 60-40% split varies little from the offset formula in this particular case. It will actually vary in each case based on the incomes of the parties.

#### Issue 10: Still need to define “overnight” or use the term, “overnight?”

- The child has to spend night to count. (Examples are Florida, North Carolina, Oklahoma, and Wyoming.
- Some states take “overnight” a step further by saying something about sleep (South Dakota) or judicial discretion but not 4 hours (Louisiana)
- An evening or smaller sessions count (see February 2022 memorandum for examples from Arizona and Tennessee that address down to 4 hour blocks)
- Other language to accommodate alternative work and sleep schedules (see Indiana).

	Identified Advantages	Identified Disadvantages
Use term “overnight”	<ul style="list-style-type: none"> <li>• <b>Simple</b></li> </ul>	<ul style="list-style-type: none"> <li>• Doesn’t address blocks of time or nontraditional work/sleep schedules</li> </ul>
Language to accommodate non-traditional schedules	<ul style="list-style-type: none"> <li>• Addresses nontraditional schedules</li> </ul>	<ul style="list-style-type: none"> <li>• Can’t contemplate every alternative schedule</li> <li>• Still need discretion</li> </ul>
Specify “blocks” or “sessions of time”	<ul style="list-style-type: none"> <li>• Responsive to the costs when there isn’t an overnight</li> </ul>	<ul style="list-style-type: none"> <li>• Complicates the adjustment</li> </ul>

### Issue 11: Worksheet or no worksheet?

- South Dakota and Nevada don’t have worksheets
- Most other states do
  - See end of memorandum for draft alternative
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	Identified Advantages	Identified Disadvantages
No worksheet	<ul style="list-style-type: none"> <li>• Simple administration</li> <li>• Nominal changes to guidelines</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of understanding how to apply</li> <li>• Consistency in application</li> </ul>
Worksheet	<ul style="list-style-type: none"> <li>• Clear instructions</li> <li>• Consistent application</li> </ul>	<ul style="list-style-type: none"> <li>• Another worksheet</li> <li>• Lots of changes to the guidelines</li> <li>• Change sequence of additional expenses necessary</li> </ul>

### Issue 12: Address split custody?

- Common approach is separate worksheet calculations for the children with each parent and set support at the difference

	Identified Advantages	Identified Disadvantages
Address split	<ul style="list-style-type: none"> <li>• Easy to address</li> <li>• Twin issue to equal custody and can be addressed together particularly with an offset</li> </ul>	<ul style="list-style-type: none"> <li>• Is it necessary? Other states find less 1-10% occurrence</li> </ul>
Don’t address	<ul style="list-style-type: none"> <li>• One less change</li> <li>• Current practice works?</li> </ul>	<ul style="list-style-type: none"> <li>• Inconsistent application</li> </ul>

State	Discretionary 50% threshold	150% language	worksheet	Split	Other Noteworthy	State Provision
Florida	shall	X	X	Deviation	Addresses failure to visit and basic necessities	<p>(b) Whenever a particular parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties provides that each child spend a substantial amount of time with each parent, the court shall adjust any award of child support, as follows:</p> <ol style="list-style-type: none"> <li>1. In accordance with subsections (9) and (10), calculate the amount of support obligation apportioned to each parent without including day care and health insurance costs in the calculation and multiply the amount by 1.5.</li> <li>2. Calculate the percentage of overnight stays the child spends with each parent.</li> <li>3. Multiply each parent's support obligation as calculated in subparagraph 1. by the percentage of the other parent's overnight stays with the child as calculated in subparagraph 2.</li> <li>4. ....</li> <li>7. The court may deviate from the child support amount calculated pursuant to subparagraph 6. based upon the deviation factors in paragraph (a), as well as the obligee parent's low income and ability to maintain the basic necessities of the home for the child, the likelihood that either parent will actually exercise the time-sharing schedule set forth in the parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties, and whether all of the children are exercising the same time-sharing schedule.</li> </ol> <p>(c) A parent's failure to regularly exercise the time-sharing schedule set forth in the parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties not caused by the other parent which resulted in the adjustment of the amount of child support pursuant to subparagraph (a)10. or paragraph (b) shall be deemed a substantial change of circumstances for purposes of modifying the child support award. A modification pursuant to this paragraph is retroactive to the date the noncustodial parent first failed to regularly exercise the court-ordered or agreed time-sharing schedule.</p>

State	Discretionary 50% threshold	150% language	worksheet	Split	Other Noteworthy	State Provision
Iowa	shall	X	Shown in work- sheet	X	Low-income adjustment not applied on top	<p><b>Rule 9.3 Purpose.</b></p> <p><i>b.</i> In cases of joint (equally shared) physical care, <b>the low-income adjustment is not applicable</b>, and the parents' combined adjusted net incomes as shown in the shaded area of the schedule are used.</p> <p><b>9.14(3) Joint physical care.</b> In cases of court-ordered joint (equally shared) physical care, child support <b>shall</b> be calculated as shown below in the Joint (Equally Shared) Physical Care Method of Child Support Computation grid. Offset is a method of payment of each parent's guideline amount of child support and the net difference shall be paid by the party with the higher child support obligation unless variance is warranted under rule 9.11. An allocation between the parties for payment of the child(ren)'s expenses ordered pursuant to Iowa Code section 598.41(5)(a) is an obligation in addition to the child support amount calculated pursuant to this rule and is not child support.</p> <p><b>9.14(4) Split or divided physical care.</b> In the cases of court-ordered split or divided physical care, child support shall be calculated in the following manner: determine the amount of child support required by these guidelines for each party based on the number of children in the physical care of the other party; offset the two amounts as a method of payment; and the net difference shall be paid by the party with the higher child support obligation unless variance is warranted under rule 9.11</p>
Indiana	shall Lower	Unique formula	X	X	Modification criteria	<p><b>An overnight will not always translate into a twenty-four hour block of time with all of the attendant costs and responsibilities. It should include, however, the costs of feeding and transporting the child, attending to school work and the like. Merely providing a child with a place to sleep in order to obtain a credit is prohibited</b></p> <p><b>Substantial and Continuing Change of Circumstances.</b> A change in circumstances may include the incarceration of a parent, a change in the income of the parents, <b>the application of a parenting plan, the failure to comply with a parenting plan</b>, or a change in the expense of child rearing specifically considered in the Guidelines.</p> <p>If the amount of support computed at the time of modification is significantly higher or significantly lower than that previously ordered and would require a drastic reduction in a parent's standard of living, consideration may be given to phasing in the change in support. This approach would allow the parent affected by the change time to make adjustments in his or her standard of living. Again, it is not the intent of the Guidelines to drive the parents into noncompliance by reducing their spendable income below subsistence level.</p> <p>Retroactive Modification. The modification of a support obligation may only relate back to the date the petition to modify was filed, and not an earlier date, subject to two exceptions: (1) when the parties have agreed to and carried out an alternative method of payment which substantially complies with the spirit of the decree; or (2) the obligated parent takes the child into the obligated parent's home and assumes custody, provides necessities, and exercises parental control for a period of time that a permanent change of custody is exercised.</p>

State	Discretionary 50% threshold	150% language	worksheet	Split	Other Noteworthy	State Provision
Louisiana	shall be about	X	X	X		<p><b>§315.9. Effect of shared custodial arrangement</b></p> <p>A.(1) "Shared custody" means that each parent has physical custody of the child for <b>an approximately equal amount</b> of time.</p> <p>(2) If there is a joint custody order or joint plan for implementation providing for shared custody, or if the court finds by a preponderance of the evidence that shared custody exists, the basic child support obligation <b>shall</b> first be multiplied by one and one-half and then divided between the parents in proportion to their respective adjusted gross incomes.</p> <p>(3) Each parent's theoretical child support obligation shall then be cross multiplied by the actual percentage of time the child spends with the other party to determine the basic child support obligation based on the amount of time spent with the other party.</p> <p>(4) Each parent's proportionate share of work-related net child care costs and extraordinary adjustments to the schedule shall be added to the amount calculated under Paragraph (3) of this Subsection.</p> <p>(5) Each parent's proportionate share of any direct payments ordered to be made on behalf of the child for net child care costs, the cost of health insurance premiums, extraordinary medical expenses, or other extraordinary expenses shall be deducted from the amount calculated under Paragraph (3) of this Subsection.</p> <p>(6) The court shall order each parent to pay his proportionate share of all reasonable and necessary uninsured ordinary medical expenses as defined in R.S. 9:315(C)(8) which are under two hundred fifty dollars.</p> <p>(7) The parent owing the greater amount of child support shall owe to the other parent the difference between the two amounts as a child support obligation. The amount owed shall not be higher than the amount which that parent would have owed if he or she were a domiciliary parent.</p> <p>B. Worksheet B reproduced in R.S. 9:315.20, or a substantially similar form adopted by local court rule, shall be used to determine child support in accordance with this Subsection.</p> <p><b>A day for the purposes of this Paragraph shall be determined by the court;</b> however, in no instance shall less than four hours of physical custody of the child constitute a day.</p> <p><b>§315.10. Effect of split custodial arrangement</b></p> <p>A.(1) "Split custody" means that each party is the sole custodial or domiciliary parent of at least one child to whom support is due. Split custody exists where there is a custody order or joint plan of implementation providing for split custody, or the court finds by a preponderance of the evidence that split custody exists.</p> <p>(2) If split custody exists as set forth in this Section, each parent shall compute a total child support obligation for the child or children in the custody of the other parent, based on a calculation pursuant to this Section.</p> <p>(3) The amount determined under Paragraph (2) of this Subsection shall be a theoretical support obligation owed to each parent.</p> <p>(4) The parent owing the greater amount of child support shall owe to the other parent the difference between the two amounts as a child support obligation.</p> <p>B. Worksheet A reproduced in R.S. 9:315.20, or a substantially similar form adopted by local court rule, shall be used by each parent to determine child support in accordance with this Section.</p>



State	Discretionary 50% threshold	150% language	worksheet	Split	Other Noteworthy	State Provision
Draft KY						<p>403.213 Criteria for modification of orders for child support and for health care -- Effects of emancipation and death of obligated parent -- Commission to review guidelines.</p> <p>(1) The Kentucky child support guidelines may be used by the parent, custodian, or agency substantially contributing to the support of the child as the basis for periodic updates of child support obligations and for modification of child support orders for health care. The provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of a material change in circumstances that is substantial and continuing. <b>If there is an adjustment for shared parenting-time as provided for in KRS 403.212 and the number of overnights used for that adjustment are not exercised for a substantial and continued period of time, this is considered a material change in circumstance that may warrant a modification.</b></p>
Maine	Presumptive X	X	X		Two calculations: equal and non equal; doesn't divide difference in half	<p>3-A. <b>Enhanced support entitlement. "Enhanced support entitlement" means the basic support entitlement multiplied by a factor of 1.5.</b></p> <p>D. When the parties have equal annual gross incomes and provide substantially equal care for each child for whom support is being determined, neither party is required to pay the other a parental support obligation. The parties shall share equally the child care costs, health insurance premiums and uninsured medical expenses. [PL 2003, c. 415, §9 (AMD).]</p> <p>D-1. When the parties do not have equal annual gross incomes but provide substantially equal care for each child for whom support is being determined, the <b>presumptive parental support obligation</b> must be determined as follows.</p> <p>(1) The enhanced support entitlement for each child must be determined.</p> <p>(2) Using the enhanced support entitlement, a parental support obligation for each child must be determined by dividing the total enhanced support obligation between the parties in proportion to their respective gross incomes.</p> <p>(3) The party with the higher annual gross income has a presumptive obligation to pay the other party the lower of:</p> <p>(a) The difference between their parental support obligations as calculated in subparagraph (2); and</p> <p>(b) The presumptive parental support obligation determined for the payor party using the basic support entitlement under the support guidelines as though the other party provided primary residential care of the child.</p> <p>(4) The parties shall share the child care costs, health insurance premiums and uninsured medical expenses in proportion to their incomes. [PL 2003, c. 415, §10 (NEW).]</p>
Michigan	Presumptive lower	Complicated formula	Automated	X		<p>3.03(A)(1) Base support mainly considers the cost of supporting a child who lives in one household. When a parent cares for a child overnight, that <b>parent should cover many of the child's unduplicated costs, while the other parent will not have to spend as much money for food, utility, and other costs for the child.</b></p> <p>3.03(D) If <b>a substantial difference occurs in the number of overnights used to set the order</b> and those actually exercised (at least 21 overnights or that causes a change of circumstances exceeding the modification threshold (\$4.05)), either parent or a support recipient may seek adjustment by filing a motion to modify the order.</p> <p>3.03(E) <b>So the court can know if circumstances have changed at the time of a subsequent determination, every child support order must indicate whether it includes a parental time offset and the number of overnights used in its calculation</b></p>

State	Discretionary 50% threshold	150% language	worksheet	Split	Other Noteworthy	State Provision
Oklahoma	presumptive lower	Sliding scale	X	X	Addresses if timesharing not exercised	<p><b>Section 118D - Computation of Child Support Obligation - Percentage of Combined Gross Income of Both Parents - Computation for Each Parent Required - Transportation Expenses - Support Order - Summary Form - Social Security Numbers Required</b></p> <p>D. 1. In cases of split physical custody, where each parent is awarded physical custody of at least one of the children for whom the parents are responsible, the child support obligation for each parent shall be calculated by application of the child support guidelines for each custodial arrangement. 2. The parent with the larger child support obligation shall pay the difference between the two amounts to the parent with the smaller child support obligation.</p> <p><b>Section 118E - Parenting Time Adjustments</b></p> <p>A. Parenting time adjustment.</p> <p>1. The adjustment <b>may be granted based upon a court order</b> or agreement that the noncustodial parent is granted at least one hundred twenty-one (121) <b>overnights</b> of parenting time per twelve-month period with the children in the case under consideration.</p> <p>2. Average parenting time. If there are multiple children for whom support is being calculated, and the parent seeking the parenting time adjustment is spending a different amount of time with each child, then an annual average of parenting time with all of the children shall be calculated.</p> <p>B. In cases of split physical custody, either parent may be eligible for a parenting time adjustment.</p> <p>C. Parenting time adjustments are not mandatory, but presumptive. The presumption may be rebutted in a case where the circumstances indicate the adjustment is not in the best interest of the child or that the increased parenting time by the noncustodial parent does not result in greater expenditures which would justify a reduction in the support obligation.</p> <p>D. Reduction in child support obligation for additional parenting time.</p> <p>1. If the parent receiving the parenting time adjustment is ....</p> <p>E. 1. <b>Failure to exercise or exercising more than the number of overnights upon which the parenting time adjustment is based, is a material change of circumstances.</b></p> <p>2. <b>If the court finds that the obligor has failed to exercise a significant number of the overnights provided in the court order necessary to receive the parenting time adjustment, in a proceeding to modify the child support order, the court may establish the amount that the obligor has underpaid due to the application of the parenting time adjustment as a child support judgment that may be enforced in the same manner as any other child support judgment.</b></p> <p>3. <b>The court may rule that the obligor will not receive the parenting time adjustment for the next twelve-month period. After a twelve-month period during which the obligor did not receive the parenting time adjustment, the obligor may petition the court to modify the child support order. The obligor may be granted a prospective parenting time adjustment upon a showing that the obligor has actually exercised the threshold number of overnights in the preceding twelve (12) months. No retroactive modification or credit from the child support guidelines amount shall be granted based on this section.</b></p>

State	Discretionary 50% threshold	150% language	worksheet	Split	Other Noteworthy	State Provision
Nebraska	Presumptive for over 142	X		X	Addresses clothing and extracurricular	<p><b>§ 4-211. Split custody.</b> Split custody is defined as each parent having physical custody of one or more of the children. <a href="#">Worksheet 2</a> shows how to do this calculation.</p> <p><b>§ 4-212. Joint physical custody.</b> When a specific provision for joint physical custody is ordered and each party's parenting time exceeds 142 days per year, it is a rebuttable presumption that support shall be calculated using <a href="#">worksheet 3</a>. When a specific provision for joint physical custody is ordered and one party's parenting time is 109 to 142 days per year, the use of <a href="#">worksheet 3</a> to calculate support is at the discretion of the court. If child support is determined under this paragraph, <b>all reasonable and necessary direct expenditures made solely for the child(ren) such as clothing and extracurricular activities shall be allocated between the parents, but shall not exceed the proportion of the obligor's parental contributions</b> (<a href="#">worksheet 1</a>, line 6). For purposes of these guidelines, a "day" shall be generally defined as <b>including an overnight period</b>.</p>
Nevada	Presumptive for	none	none	X	Simple offset	<p><b>3. If the parties have joint physical custody of a child, the child support obligation of each party must be determined. After each party's respective child support obligation is determined, the child support obligations must be offset so that the party with the higher child support obligation pays the other party the difference.</b></p> <p><b>4. If the parties have two or more children and each party has joint physical custody of at least one, but not all, of the children, the total child support obligation of each party must be determined based on the number of children to whom each party owes a child support obligation. After each party's respective child support obligation is determined, the child support obligations must be offset so that the party with the higher child support obligation pays the other party the difference.</b></p>

State	Discretionary 50% threshold	150% language	worksheet	Split	Other Noteworthy	State Provision
South Carolina	Discretionary	X		X	Consider “substantial negative effect on children’s standard of living”	<p><b>4. UNUSUAL CUSTODY ARRANGEMENTS</b></p> <p><b>A. SHARED PARENTING ARRANGEMENTS</b></p> <p>When both parents are deemed fit, and other relevant logistical circumstances apply, active participation in the life of the child(ren) by the parent without custody should be encouraged in order to ensure the maximum involvement by both parents in the life of the child(ren). . The amount of visitation, however, is left to the discretion of the judge in consideration of the various factors of the Children’s Code, and the use of the calculation on Worksheet C in shared physical custody cases is advisory and not compulsory. The court should consider each case individually before applying the adjustment to ensure that it does not produce a substantial negative effect on the child(ren)’s standard of living.</p> <p>For the purpose of this section, shared physical custody means that each parent has court-ordered visitation with the children <b>overnight</b> for more than 109 overnights each year (30%) and that both parents contribute to the expenses of the child(ren) in addition to the payment of child support.</p> <p>If a parent with shared physical custody does not exercise it as ordered by the court, the parent to whom support is owed may petition the court for a reversion to the level of support calculated under the guidelines without the shared parenting adjustment. The shared physical custody adjustment is an annual adjustment only and should not be used when the proportion of overnights exceeds 30% for a shorter period, e.g., a month. For example, child support is not abated during a month-long summer visitation. This adjustment should be applied without regard to legal custody of the child(ren). Legal custody refers to decision-making authority with respect to the child(ren). If the 109 overnights threshold is reached for shared physical custody, this adjustment may be applied even if one parent has sole legal custody.</p> <ol style="list-style-type: none"> <li>1. Child support for cases with shared physical custody shall be calculated using Worksheet C. This worksheet should be used only for shared physical custody as defined above.</li> <li>2. The basic child support obligation shall be multiplied by 1.5 to arrive at a shared custody basic child support obligation. The shared custody basic child support obligation is apportioned to each parent according to his or her income. In</li> </ol> <p>....</p> <p><b>B. SPLIT CUSTODY</b></p> <p>Split custody refers to custody arrangements where there are two or more children and each parent has physical custody of at least one child. Using these guidelines, the court should determine a theoretical support payment for the child or children in the custody of the other. In split custody arrangements the guidelines arrive at separate computations for the child or children residing with each parent. The obligations are then offset, with the parent owing the larger amount paying the difference to the other parent.</p>

State	Discretionary 50% threshold	150% language	worksheet	Split	Other Noteworthy	State Provision
South Dakota	Discretionary 180 nights	X			that the parents will share the duties and responsibilities of parenting the child and the expenses of the child in proportion to their incomes,	<p>25-7-6-27. Shared parenting child support cross credit.</p> <p>If a custody order by the court, contains a detailed shared parenting plan which provides that the child will reside no less than one hundred eighty nights per calendar year in each parent's home, <b>and that the parents will share the duties and responsibilities of parenting the child and the expenses of the child in proportion to their incomes</b>, the court may, if deemed appropriate under the circumstances, grant a cross credit on the amount of the child support obligation based on the number of nights the child resides with each parent. The shared parenting child support cross credit shall be calculated as follows:</p> <p>(1) Multiply the parents' combined child support obligation under the schedule by 1.5 to establish the parents' combined shared parenting child support obligation;</p> <p>(2) Multiply the combined shared parenting child support obligation by each parent's percentage share of the parents' combined net incomes to establish each parent's shared parenting child support obligation;</p> <p>(3) Multiply each parent's shared parenting child support obligation by the percentage of nights the child resides with each parent based on a three hundred sixty-five day calendar year to establish each parent's prorated shared parenting child support obligation;</p> <p>(4) Offset the parents' prorated shared parenting child support obligations; and</p> <p>(5) The parent with the larger prorated shared parenting child support obligation shall pay the difference between these amounts.</p> <p>In deciding whether a shared parenting child support cross credit is <b>appropriate, the court shall consider whether it would have a substantial negative effect on the child's standard of living. It is presumed that the parenting time is exercised. If the parenting time exercised substantially deviates from the parenting time ordered, either party may petition the court for a modification of the support order without showing any other change in circumstances.</b></p> <p>Child residence with parent for a night--Residence for days.</p> <p>For the purposes of §§ 25-7-6.14 and 25-7-6.27, a <b>child resides with a parent for a night if the child sleeps:</b></p> <p>(1) At the residence of that parent at night, whether or not the parent is present; or</p> <p>(2) In the company of the parent, if the child does not sleep at a parent's residence. If, in a calendar year, due to a parent's nighttime work schedule, a child resides with a parent for days, but not nights, the court may condition the abatement on the required days rather than nights. In those instances, on a school day, the child is treated as residing at the primary residence registered with the school.</p>

State	Discretionary 50% threshold	150% language	worksheet	Split	Other Noteworthy	State Provision
Wyoming	Presumptive for	X	X	X	both parents contribute substantially to the expenses of the children in addition to the payment of child support	<p>(c) When each parent keeps the <b>children overnight for</b> more than twenty-five percent (25%) of the year <b>and both parents contribute substantially to the expenses of the children in addition to the payment of child support, a shared responsibility child support obligation shall be determined by multiplying the parents' total</b> child support obligation as derived from subsection (a) of this section by one hundred fifty percent (150%). After the shared responsibility child support obligation is determined, that amount shall be divided between the parents in proportion to the net income of each. The proportionate share of the total obligation of each parent shall then be multiplied by the percentage of time the children spend with the other parent to determine the theoretical support obligation owed to the other parent. The parent owing the greater amount of child support shall pay the difference between the two (2) amounts as the net child support obligation.</p> <p>(d) When each parent has physical custody of at least one (1) of the children, a shared responsibility child support obligation for all of the children shall be determined by use of the tables. The shared responsibility child support amount shall be divided by the number of children to determine the presumptive support obligation for each child, which amount shall then be allocated to each parent based upon the number of those children in the physical custody of that parent. That sum shall be multiplied by the percentage that the other parent's net income bears to the total net income of both parents. The obligations so determined shall then be offset, with the parent owing the larger amount paying the difference between the two (2) amounts to the other parent as a net child support obligation.</p>

### Excerpt of Alabama Guidelines Effective May 1, 2022 that mention Shared Physical Custody

Excerpt	Recommendation
<p>(1) REASONS FOR DEVIATING FROM THE GUIDELINES. Reasons for deviating from the guidelines may include, but are not limited to, the following:</p> <p>(a) <b>Shared physical custody</b> or visitation rights providing for periods of physical custody or care of children by the obligor parent substantially in excess of those customarily approved or ordered by the court;</p>	
<p>Other assumptions incorporated in the revised schedule include:</p> <ul style="list-style-type: none"> <li>(1) Tax assumptions. The revised schedule assumes that all income is taxed at the rate of a single taxpayer based on federal and state income-tax withholding formulas;</li> <li>(2) Health-care costs. In respect to health-care costs, the revised schedule assumes unreimbursed medical costs up to \$250 per child per year; these assumed costs include medical expenses not covered or reimbursed by health insurance, Medicaid, All Kids, or insurance from another public entity; an</li> <li>(3) Visitation. The revised schedule is premised on the assumption that the noncustodial parent will exercise customary visitation rights, including summer visitation. Any abatement of child support because of extraordinary visitation should be based on visitation in excess of customary visitation</li> </ul>	<p>Modify paragraph (3) to note parenting-time adjustment</p>
<p>Anyplace where Child-Support Guidelines form (Form CS-42).</p> <p><b>Comment (As amended to conform to amendments effective October 4, 1993</b></p> <p>The Alabama child support guidelines do not specifically address the problem of establishing a support order in joint legal custody situations. Such a situation may be considered by the court as a reason <b>for deviating from the guidelines in appropriate situations, particularly if physical custody is jointly shared</b> by the parents. Shared physical custody, regardless of “legal custodial arrangements,” is an appropriate reason for deviation, Section (A)(1)(a). “Shared physical custody” refers to that situation where the physical placement is shared by the parents in such a manner as to assure the child frequent and continuing contact and time with both parents. Because of the infinite possibilities that exist in terms of time spent with each parent and other considerations associated with such custody, a determination of support is to be made on a case-by-case basis and is left to the sound discretion of the trial court, to be based on findings made at or after trial or upon a fair written agreement of the parties. When a shared physical custody situation results in a support award that deviates from the award that would result from application of the guidelines, the trial court’s order, or the written agreement of the parties, must specify and explain the reason for the deviation.</p>	
<p>Anyplace where Child-Support Guidelines form (Form CS-42) is mentioned</p>	

Figure 5: Existing Worksheet (Worksheet for Sole Custody and Non-Equal Shared Custody)

State of Alabama Unified Judicial System Form CS-42 Rev. 5/2022		CHILD SUPPORT GUIDELINES		Case Number
IN THE _____ COURT OF _____ COUNTY, ALABAMA (Circuit or District) (Name of County)				
_____ v. _____				
Plaintiff			Defendant	
Children	Date of Birth	Children	Date of Birth	
		Number of Children		
Line	Item	Plaintiff	Defendant	Combined
1	MONTHLY GROSS INCOME	\$	\$	\$
1a	Minus Preexisting Child Support Payments	—	—	—
1b	Minus Preexisting Periodic Alimony Payments	—	—	—
2	MONTHLY ADJUSTED GROSS INCOME (Line 1 – Line 1a – Line 1b)	\$	\$	\$
3	PERCENTAGE SHARE OF INCOME (Income on Line 2 divided by Combined Income)	%	%	100%
4	BASIC CHILD SUPPORT OBLIGATION (Apply Line 2 Combined to Schedule of Basic Child Support Obligations)			\$
5	WORK-RELATED CHILD-CARE COSTS (Paid by Either Parent)	\$	\$	+
6	HEALTH-CARE-COVERAGE COSTS (Paid by Either Parent)	\$	\$	+
7	TOTAL CHILD-SUPPORT OBLIGATION (Combined Line 4 + Line 5 + Line 6)			\$
8	EACH PARENT'S CHILD SUPPORT OBLIGATION (Line 3 x Line 7)	\$	\$	
9	TOTAL COSTS PAID BY EACH PARENT (Line 5 + Line 6)	—	—	
10	EACH PARENT'S ADJUSTED CHILD-SUPPORT OBLIGATION (Line 8 – Line 9. If less than \$0, enter \$0.)	\$	\$	
	<b>Self-Support Reserve (SSR)</b>			
11	INCOME AVAILABLE AFTER SSR (Line 2 – SSR of \$981. If less than \$0, enter \$0.)	\$	\$	
12	INCOME AVAILABLE FOR SUPPORT (85% of Line 11. If less than \$50, enter \$50 minimum obligation.)	\$	\$	
	<b>Recommended Child Support Order</b>			
13	RECOMMENDED CHILD-SUPPORT ORDER (Lesser of Lines 10 and 12)	\$	\$	
Comments, Calculations, or Rebuttals to Guidelines:				
Prepared By: _____ Date: _____				



Figure 6: Crude Revision for Shared-Parenting Using Offset and Additional Expenses: Example 1

		Number of Children		1
Line	Item	Plaintiff	Defendant	Combined
1	MONTHLY GROSS INCOME	\$ 2,000	\$ 4,000	\$ 6,000
2	MONTHLY ADJUSTED GROSS INCOME (Line 1 – Line 1a – Line 1b)	\$ 2,000	\$ 4,000	\$ 6,000
3	PERCENTAGE SHARE OF INCOME (Income on Line 2 divided by Combined Income)	33%	67%	100%
4	BASIC CHILD-SUPPORT OBLIGATION (Apply Line 2 Combined to Schedule of Basic Child-Support Obligations)			\$ 851
New Line 5	SHARED-PARENTING TIME OBLIGATION (150% of Basic Obligation (1.5 X Line 4))			\$ 1,277
New Line 6	EACH PARENT'S SHARE OF SHARED-PARENTING OBLIGATION (Line 3 x New Line 5)	\$ 421	\$ 855	
New Line 7	RECOMMENDED CHILD SUPPORT ORDER (Subtract amount on Line 6 from higher amount, put in column of parent with higher amount)		\$ 434	
	<i>Additional Expenses</i>			
5	WORK-RELATED CHILD-CARE COSTS (Paid by Either Parent)	\$ 150	\$ 0	\$ 150
6	HEALTH-CARE-COVERAGE COSTS (Paid by Either Parent)	\$ 0	\$ 200	\$ 200
7	TOTAL CHILD-SUPPORT OBLIGATION (Combined Line 5 + Line 6)			\$ 350
8	EACH PARENT'S share of additional expenses	\$ 116	\$ 235	
9	TOTAL COSTS PAID BY EACH PARENT (Line 5 + Line 6)	\$ 150	\$ 200	
10	EACH PARENT'S ADJUSTED Add-on for Additional Expenses (Line 8 – Line 9. If less than \$0, enter \$0.)	\$ 0	\$ 35	
13	RECOMMENDED CHILD-SUPPORT ORDER (if New Line 7 and Line 10 are owed by the same party, add New Line 7 and Line 10, if New Line 7 and Line 10 are not owed by same party, subtract Line 10 from the obligated parent in New Line 7)		\$ 469	
Comments, Calculations, or Rebuttals to Guidelines:				
Prepared By:			Date:	

Figure 7: : Crude Revision for Shared-Parenting Using Offset and Additional Expenses: Example 2

		Number of Children		1
Line	Item	Plaintiff	Defendant	Combined
1	MONTHLY GROSS INCOME	\$ 2,000	\$ 4,000	\$ 6,000
2	MONTHLY ADJUSTED GROSS INCOME (Line 1 – Line 1a – Line 1b)	\$ 2,000	\$ 4,000	\$ 6,000
3	PERCENTAGE SHARE OF INCOME (Income on Line 2 divided by Combined Income)	33%	67%	100%
4	BASIC CHILD-SUPPORT OBLIGATION (Apply Line 2 Combined to Schedule of Basic Child-Support Obligations)			\$ 851
New Line 5	SHARED-PARENTING TIME OBLIGATION (150% of Basic Obligation (1.5 X Line 4))			\$ 1,277
New Line 6	EACH PARENT'S SHARE OF SHARED-PARENTING OBLIGATION (Line 3 x New Line 5)	\$ 421	\$ 855	
New Line 7	RECOMMENDED CHILD SUPPORT ORDER (Subtract amount on Line 6 from higher amount, put in column of parent with higher amount)		\$ 434	
	<i>Additional Expenses</i>			
5	WORK-RELATED CHILD-CARE COSTS (Paid by Either Parent)	\$ 150	\$ 0	\$ 150
6	HEALTH-CARE-COVERAGE COSTS (Paid by Either Parent)	\$ 0	\$ 400	\$ 400
7	TOTAL CHILD-SUPPORT OBLIGATION (Combined Line 5 + Line 6)			\$ 550
8	EACH PARENT'S share of additional expenses	\$ 182	\$ 369	
9	TOTAL COSTS PAID BY EACH PARENT (Line 5 + Line 6)	\$ 150	\$ 400	
10	EACH PARENT'S ADJUSTED Add-on for Additional Expenses (Line 8 – Line 9. If less than \$0, enter \$0.)	\$ 32	\$ 0	
13	RECOMMENDED CHILD-SUPPORT ORDER (if New Line 7 and Line 10 are owed by the same party, add New Line 7 and Line 10, if New Line 7 and Line 10 are not owed by same party, subtract Line 10 from the obligated parent in New Line 7)		\$ 402	